IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 326 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE B.J.SHETHNA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESHBHAI BABERBHAI DHODIA

Versus

NANKABHAI KUKARBHAI DHODIA

Appearance:

1. Appeal from Order No. 326 of 1999

MR DR DHIMAR for Petitioner No. 1

MS KJ BRAHMBHATT for Respondent No. 1

CORAM : MR.JUSTICE B.J.SHETHNA

Date of decision: 01/11/2001

ORAL JUDGEMENT

Last time i.e. on 18.9.2001 when this matter was placed before this court both the learned counsel for the parties Shri Dhimar for appellant and Ms.Brahmbhatt for

respondent stated at the bar that their respective clients were in possession of the land in question. In view of the that, both the parties were directed to file detailed affidavit with documentary evidence in support of their claim and the matter was kept today.

Toady, both the counsels Mr.Dhimar for appellant and Ms.Brahmbhatt for respondent stated at the Bar that none of them was able to get affidavit as desired, therefore, having regard to the peculiar facts and circumstances of the case they left it to the discretion of the court to pass appropriate order in the matter without going into the merits, legality and validity of the impugned order passed by the learned trial court.

In view of the above, this appeal is disposed of without going into the legality and validity of the impugned order passed by the learned Trial Court with a direction to the learned Trial Judge to decide the Special Civil Suit No.44/98 as early as possible and not later than 31.12.2002. Till then both the parties shall maintain status quo as on today. They shall fully cooperate with the final disposal of the suit and they will not ask for unnecessary adjournments from the trial court. It goes without saying that the learned Judge while deciding the suit shall not be influenced with any observations or findings arrived at by the learned Trial Judge while deciding application Ex.5. Civil application is disposed of as the main Appeal from Order is disposed of.

(B.J.Shethna, J.)

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